IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

-

**WRIT PETITION NO : 478 of 1992**

Between:

1. D.Himachalam, S/o D.Naraparaju, age 37Yrs., Lecturer in S.V.University College of Arts & Science, Tirupathi, R/o Tirupathi.
2. M.Muniram Reddy, S/o Krishnaiah, age 43Yrs., Reader in S.V.University college of Arts & Scinces, Tirupathi, R/o Tirupathi.
3. D.Usha Rani, W/o M.V.Sudhakar Reddy, age 40Yrs., Director, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.
4. B.E.V.V.N.Murthy, S/o late B.Appala Naidu, age 44Yrs., Reader in S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.
5. Prof. J.Lakshmana Rao, S/o late J.Santhoji Rao, age 45Yrs., Professor, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.
6. P.C.Narasimha Reddy, S/o P.Narsi Reddy, age 48Yrs., Professor, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.
7. S.Buddhudu, S/o late A.B.Srinivasulu, age 37Yrs., Reader in

S.V.University College of Arts & Sciences,

Tirupathi, R/o Tirupathi.

8. M.Narasimha Reddy, S/o M.Venkataramana Reddy, age 40Yrs., Reader, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

9. Prof. K.Mahadevan, S/o N.K.Nayar, age 52Yrs., Professor, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

10. P.Sourirajan, S/o Ponam, age 59Yrs., Professor, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

11. Prof. G.Rajeswara Rao, S/o G.Suryanarayana Murthy, age 58Yrs., Professor, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

12. M.V.Sudhakar Reddy, S/o M.N.Channa Reddy, age 45Yrs., Director in Adult Edcuation, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

13. G.Radhakrishna, S/o G.Krishnama Naidu, age 30Yrs., Lecturer, S.V.University College of Arts & Sciences, Tirupathi, R/o Tirupathi.

**…. Petitioners**

And

1. The State of Andhra Pradesh, rep. By its Principal Secretary to Government, Finance & Planing Department, Secretariat, Hyderabad.

2. The State of Andhra Pradesh, rep. By its Principal Secretary to Government, Education Department, Secretariat, Hyderabad.

3. Sri Venkateswara University, Tirupathi rep. By its

Registrar, Tirupathi.

**….. Respondents**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus directing the respondents to forthwith pay to the petitioners 'PILGRIMATE COMPENSATORY ALLOWANCE' on par with the employees of Tirumala Tirupathi Devasthanams and several others by giving effect to the resolution No.C-3,dated 25-3-1991 of the Board of Management, Sri Venkateswara University, Tirupathi with all consequential benefits such as payment of arrears, etc. and pass such other order or orders are deemed fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO**

**Counsel for the Respondent No.1: GP FOR FINANCE & PLANNING**

**Counsel for respondent No.2 : G.P. for Education**

**Counsel for respondent No.3 : Sri B.Adinarayana Rao,**

**The Court made the following :**

**ORAL ORDER:**

The petitioners, 13 in number, seek payment of pilgrimage compensatory allowance

on par with employees of the Tirumala Tirupati Devastanams (TTD) and others by giving effect to resolution No.C-3 dated 25-3-1991 of the Board of Management of Sri Venkateswara University, Tirupati.

It is the case of the petitioners that Tirupati town attracts the maximum number of pilgrims from all parts of the country, that the residents of Tirupati are visited day in and day out by friends and relatives with cost of living becoming high and that it is considered as one of the most expensive towns of the country. It is their case that though Sri Venkateswara University is created by Statute, none the less in relation to service conditions of its employees, the same rules that are rendered applicable to Government servants are applicable to the employees of Sri Venkateswara University. They rely on the resolution passed by the Board of management of the University whereby it was decided to pay the said allowance to the employees of the university after receipt of funds from the State Government. Reference is made to Rule 2(i) of the Manual of Special Pay Allowances and to Rule 44 thereof. The petitioners also refer to G.O.Ms.No.1382, Revenue (Endowments-III) Department dated 3-9-1984 in which the State Government accepted the proposal of the Managing Committee of T.T.D and accorded sanction for payment of pilgrimage compensatory allowance to T.T.D. employees. Reference is also made to the Memo dated 15-5-1985 issued by the State Government that all T.T.D employees whose places of duty are located within 8 K.Ms. from the Municipal limits of Tirupati town are also eligible for pilgrimage compensatory allowance in terms of G.O.Ms.No.1382 dated 3-9-1984. The petitioners also refer to G.O.Rt.No.457, Revenue (Endowments – III) Department dated 8-4-1988 in which sanction was accorded for payment of pilgrimage compensatory allowance in terms of G.O.Ms.1382 dated 3-9-1984 to employees working in TTD on deputation, on foreign service terms and conditions. The State Government under G.O.Ms.No.62, Revenue (Endowments-I) Department dated 12-1-1990 is stated to have accorded sanction for enhancement of existing

rate of pilgrimage compensatory allowance from 10% to 12% on the basic pay subject to a minimum of Rs.70/- and a maximum of Rs.200/- per month. Petitioners also contend that payment of pilgrimage compensatory allowance to employees working in the T.T.D and to government servants sent on deputation to T.T.D, while denying the said allowance to employees of Sri Venkateswara University, is arbitrary, illegal and in violation of Articles 14 and 16 of the Constitution of India. They also refer to cases of employees working in municipal high schools, aided educational institutions, Zilla Parisahds etc., in support of their submission that the petitioners, who are employees of the university are similarly situated and are entitled on par with the aforesaid employees for payment of pilgrimage compensatory allowance. It is also contended that the employees working in TTD as well as Sri Venkateswara University are governed by the same conditions of service that are being adopted by the statutory authorities from A.P. State and Subordinate Service Rules and the rules governing the service conditions of State Government servants and that employees of the university are also entitled for payment of pilgrimage compensatory allowance on par with employees of TTD. The doctrine of 'equal pay for equal work' is invoked to contend that persons similarly situated are required to be treated alike.

A Counter affidavit has been filed on behalf of the respondents by the Secretary to Government, Finance Department wherein it is stated that the Government orders, sanctioning payment of pilgrimage compensatory allowance to employees of the T.T.D, is not applicable to the petitioners and that reference to Rule 2(1) of A.P. Manual of Special Pay and Allowances which defines pilgrimage compensatory allowance cannot be made the basis for claiming the said allowance, more so, since the university employees stand on a different footing when compared to employees working with the TTD. The Petitioners' contention that they are discharging the same duties as that of the employees of T.T.D is denied. It is further stated in the counter affidavit that it was only on the specific representation made by the

employees of T.T.D that the Government had accepted the proposal and issued the said G.O, more particularly taking into consideration the special and peculiar duties to be performed by TTD employees. It is also stated in the counter affidavit that employees sent on deputation to T.T.D are required to perform duties given to them by TTD and that they are entitled to enjoy certain facilities given by the T.T.D only for the limited period that they serve TTD and not the Government. It is further averred that TTD is a distinct and separate organization, that the salaries and other allowances of staff members of TTD are met from the funds of TTD, not from Government funds, that they are not employees of the Government and that they cannot be compared with employees of the University as they are in separate categories. Reference is also made to the judgment of Division Bench of this Court in W.P.Nos.16217 and 16220 of 1990 dated 7-9-1999 wherein a similar request made by Judicial Officers working in Tirupati for payment of pilgrimage compensatory allowance on par with TTD employees and government servants sent on deputation to TTD was rejected holding that the petitioners therein belonged to an altogether different category in the State service and that comparison with T.T.D employees or with deputationists to T.T.D was wholly inappropriate.

It is well settled that while Articles 14 and 16 of the Constitution of India enjoin the State or its instrumentalities, by its acts, not to discriminate as between two individuals who are similarly circumstanced, the burden is on the petitioners to set out facts necessary to sustain the plea of discrimination and to adduce cogent and convincing evidence to prove those facts. In order to establish that the protection of the equal opportunity clauses, under Articles 14 and 16 of the Constitution of India, has been denied to them, it is not enough for the petitioners to state that they have been treated differently from others. It is incumbent on them to plead and prove that they and the employees of the T.T.D. are similarly situated and form one class with regards pay scales and other allowances and that any further classification among this homogenous class with regards payment of pilgrimage compensatory

allowance is unreasonable and bears no rational nexus with its purported object. The petitioners, having failed to discharge their burden, are not entitled for the relief sought for in the writ petition.

As held by the Hon'ble Division Bench of this Court in W.P.Nos.16217 and 16220 of 1990 dated 7-9-1999 in the case of judicial officers working in Tirupati, the petitioners herein also belong to an altogether different category as compared to employees of the T.T.D.

Petitioners herein are employees of Sri Venkateswara University and form a different category distinct from that of the employees of TTD or government employees sent on deputation to the T.T.D and as such are not entitled to compare themselves with the employees of T.T.D or to contend that they are similarly situated. Since the petitioners herein are not similarly situated to those employees working in the T.T.D, the question of discrimination or violation of Articles 14 and 16 does not arise.

The writ petition is accordingly dismissed. No costs.

_____

14-6-2005

asp

To

1. The State of Andhra Pradesh, rep. By its

   Principal Secretary to Government, Finance & Planing

   Department, Secretariat, Hyderabad.

2. The State of Andhra Pradesh, rep. By its Principal Secretary to

   Government, Education Department, Secretariat, Hyderabad.

3. Sri Venkateswara University, Tirupathi rep. By its

   Registrar, Tirupathi.

4. Two C.C.s each to the G.P. for Finance & Planning, and the G.P. for Education, High Court buildings, Hyderabad. (O.U.T.)

5. Two C.D. copies.